

§ 532.4

through common stock ownership or common directors or officers.

Subpart B—Procedures Related to NVOCC Negotiated Rate Arrangements

§ 532.4 NVOCC rules tariff.

Before entering into NRAs under this Part, an NVOCC must provide electronic access to its rules tariffs to the public free of charge.

§ 532.5 Requirements for NVOCC negotiated rate arrangements.

In order to qualify for the exemptions to the general rate publication requirement as set forth in section 532.2, an NRA must:

- (a) Be in writing;
- (b) Contain the names of the parties and the names of the representatives agreeing to the NRA;
- (c) Be agreed to by both NRA shipper and NVOCC, prior to receipt of cargo by the common carrier or its agent (including originating carriers in the case of through transportation);
- (d) Clearly specify the rate and the shipment or shipments to which such rate will apply; and
- (e) May not be modified after the time the initial shipment is received by the carrier or its agent (including originating carriers in the case of through transportation).

[76 FR 11360, Mar. 2, 2011; 76 FR 19707, Apr. 8, 2011, as amended at 77 FR 33972, June 8, 2012]

§ 532.6 Notices.

An NVOCC wishing to invoke an exemption pursuant to this part must indicate that intention to the Commission and the public by a prominent notice in its rules tariff.

[77 FR 33972, June 8, 2012]

Subpart C—Recordkeeping

§ 532.7 Recordkeeping and audit.

(a) An NVOCC invoking an exemption pursuant to this part must maintain original NRAs in an organized, readily accessible or retrievable manner for 5 years from the completion date of performance of the NRA by an NVOCC, in

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a format easily produced to the Commission.

(b) NRAs are subject to inspection and reproduction requests by the Commission. An NVOCC shall produce the requested NRAs promptly in response to a Commission request. All records produced must be in English or be accompanied by a certified English translation.

(c) Failure to keep or timely produce original NRAs will disqualify an NVOCC from the operation of the exemption provided pursuant to this part, regardless of whether it has been invoked by notice as set forth above, and may result in a Commission finding of a violation of 46 U.S.C. 41104(1), 41104(2)(A) or other acts prohibited by the Shipping Act.

[77 FR 33972, June 8, 2012, as amended at 78 FR 42889, July 18, 2013]

§ 532.91 OMB control number issued pursuant to the Paperwork Reduction Act.

The Commission has received OMB approval for this collection of information pursuant to the Paperwork Reduction Act of 1995, as amended. In accordance with that Act, agencies are required to display a currently valid control number. The valid control number for this collection of information is 3072–0071.

PART 535—OCEAN COMMON CARRIER AND MARINE TERMINAL OPERATOR AGREEMENTS SUBJECT TO THE SHIPPING ACT OF 1984

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Subpart B—Scope

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Subpart C—Exemptions

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- 535.303 Husbanding agreements—exemption.